

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

AC2T, INC. D/B/A SPARTAN MOSQUITO

PLAINTIFF/
COUNTER-DEFENDANT

V.

CIVIL ACTION NO. 2:21-cv-00093-TBM-RPM

LIGHTS ON DISTRIBUTORS, LLC,
CCD WEBSTORE, LLC D/B/A THINK WEBSTORE,
CARTER CUSTOM DESIGN, LLC,
BRYAN CARTER, AND
JOHN DOES 1-10

DEFENDANTS/
COUNTER-PLAINTIFFS/
THIRD-PARTY PLAINTIFFS

V.

JEREMY HIRSCH, MATTHEW JACKSON,
AND JOHN DOES 1-50

THIRD-PARTY DEFENDANTS

RESPONSE TO MOTION FOR CLARIFICATION

COMES NOW Plaintiff, AC2T, D/B/A Spartan Mosquito (hereinafter “Spartan”), by and through its undersigned attorneys of record, and submits this Response to Defendants’ Motion for Clarification [Dkt. 59] and would show unto the Court the following:

On April 1, 2022, Defendants filed a Renewed Motion to Dismiss [Dkt. 44 (corrected)] Plaintiff’s Amended Complaint [Dkt. 28].

On September 8, 2022, the Court held a hearing on the motion and on September 9, 2022, the Court issued an Order [Dkt. 57] granting in part (as to fraud, negligent misrepresentation, concealment, intentional interference, negligence, and unjust enrichment) and denying in part (as to breach of contract, conversion, money had and received, and misappropriation) Defendants’ motion requests. The Court’s Order does not address Spartan’s properly pled causes of action for promissory estoppel or breach of the duty of good faith and fair dealing/bad faith.

As set forth in the Memorandum Brief submitted contemporaneously herewith, the Court should grant Defendants' Motion for Clarification and issue an Order explicitly stating that Plaintiffs' claims of promissory estoppel and breach of the duty of good faith and fair dealing/bad faith will proceed.

WHEREFORE, Spartan respectfully requests that the Court deny the Defendant's Motion for Clarification of the September 9, 2022 Order and find that Spartan's claims for promissory estoppel and breach of the duty of good faith and fair dealing/bad faith will proceed along with the claims for breach of contract, conversion, money had and received, misappropriation, and all other claims of Spartan not dismissed by this Court. Spartan further respectfully requests any additional and further relief the Court deems just and equitable.

RESPECTFULLY SUBMITTED, on this the 21st day of October, 2022.

AC2T, INC.
D/B/A SPARTAN MOSQUITO,
PLAINTIFF/COUNTER-DEFENDANT

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and Third-Party Defendant Jeremy Hirsch*

CERTIFICATE OF SERVICE

The undersigned herein states that he has this day served upon the following persons a true and correct copy of the foregoing instrument by way of the ECF filing system:

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RESPECTFULLY SUBMITTED, this 21st day of October, 2022.

s/Seth M. Hunter (MSB# 101145)